

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

STEVEN NOVIA, individually and on behalf of
all others similarly situated,

Plaintiff,

v.

MOBIZ, INC.; HARRIS BROTHERS OF
MICHIGAN, INC.,

Defendants.

Civil Action No. 1:25-cv-11036-AK

**ASSENTED-TO MOTION TO VACATE DEFAULT JUDGMENT
AND TO EXTEND TIME TO RESPOND TO COMPLAINT**

Defendant Harris Brothers of Michigan, Inc. (“Harris Brothers”), by and through its undersigned counsel, hereby moves this Court for an order vacating the default judgment that has been entered against Harris Brothers in the above-captioned case. Counsel for Plaintiffs has assented to the relief requested herein.

As grounds for this motion, undersigned counsel for Harris Brothers states as follows:

1. The Class Action Complaint (“Complaint”) in this action was filed on April 19, 2025. (Doc. No. 1). The Complaint, which purports to assert claims arising under 47 U.S.C. § 227, names Harris Brothers and Mobiz, Inc. as Defendants. *Id.*
2. Harris Brothers is a corporation based in the State of Michigan. Harris Brothers has a principal place of business at 127 South Saginaw Street, Byron, MI 48418.
3. On or about June 15, 2025, Plaintiff filed a Motion for Clerk’s Entry of Default Against Defendant Harris Brothers (the “Default Motion”). *See* (Doc. No. 11). The Default Motion states that Harris Brother was served with a copy of the Complaint on

April 28, 2025. *Id.* In support of that contention, the Default Motion cites to an Affidavit of Service, dated April 28, 2025. (Doc. No. 6).

4. On June 16, 2025, this Court entered an order granting the Default Motion. (Doc. No. 12). That same date the Court clerk entered a default in this action as to Harris Brothers. (Doc. No. 13).
5. The Affidavit of Service submitted with Plaintiff's Default Motion states that a copy of the Summons and Complaint in this case were served on April 28, 2025, to an individual named "Beatrice Johnson," who was allegedly an "Authorized Office Manager" of Harris Brothers. (Doc. No. 6).
6. Harris Brothers does not employ an individual named "Beatrice Johnson," nor is any such person authorized to accept service on behalf of Harris Brothers. Accordingly, Harris Brothers never received a service copy of the Summons and Complaint in this action, nor was it properly served with those materials in connection with this action.
7. After discovery of the entry of default against Harris Brothers, undersigned counsel conferred with counsel for the Plaintiff regarding the apparent confusion regarding Plaintiff's efforts to serve Harris Brothers with the Summons and the Complaint in this action. Undersigned counsel has agreed to accept service of the Summons and Complaint on behalf of Harris Brothers, and counsel have further agreed to an extension of time to and including August 8, 2025, for Harris Brothers to respond to the Complaint.

WHEREFORE, Harris Brothers respectfully requests that this Court enter an order (1) vacating the Clerk's entry of default against Harris Brothers, and (2) granting Harris Brothers an extension of time to and including August 8, 2025, to submit a response to the Complaint in this action.

Respectfully submitted,

HARRIS BROTHERS OF MICHIGAN, INC

By its attorneys,

/s/ Daniel J. Cloherty

Daniel J. Cloherty (BBO #565772)

dcloherty@clohertysteinberg.com

Alexandra Arnold (BBO #706208)

aarnold@clohertysteinberg.com

CLOHERTY & STEINBERG LLP

One Financial Center, Suite 1120

Boston, MA 02111

617-481-0160

Dated: July 14, 2025

LOCAL RULE 7.1 CERTIFICATION

I hereby certify that, pursuant to D. Mass. Local Rule 7.1(A)(2), counsel for Defendant Harris Brothers conferred with counsel for the Plaintiff, who assents to the relief requested herein.

/s/ Daniel J. Cloherty

Daniel J. Cloherty

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants, as identified on the Notice of Electronic Filing, on July 14, 2025.

/s/ Daniel J. Cloherty

Daniel J. Cloherty